CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

MONTHLY MANAGEMENT

MARCH 2004

April 14, 2004

APPENDED TO EXECUTIVE OFFICER REPORT

CONTENTS

SIGNIFICANT NPDES
PERMITS, WDRS, AND RB ACTIONS

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DATE OF REPORT **APRIL 14, 2004**										
NAME OF PERMIT/WDR/RB ACTION	**ACTION TYPE**	**APPLICATION COMPLETE**	**DISCH./RWQ LIMITS KNOWN**	**Monitoring Req'tments and Plan**	**COMPL DRAFT**	**PUBLIC REV. & COMMENT**	**BOARD HEARING & ADOPTION**	**Consent Calendar Item**	**COMMENTS**	**Staff**
MAY 12, 2004 RB MEETING										
AT CITY OF LAGUNA BEACH										
UNIVERSITY OF CALIF. SCRIPPS INSTITUTION	Resolution: Ocean	100%	NA	NA	100%	50%	May 12, 2004	No		Knedlik
OF OCEANOGRAPHY--2001 CALIF. OCEAN PLAN	Plan Exception									
ORANGE CO. MS4 STORMWATER PROGRAMS	Status Report	NA	NA	NA	NA	0%	May 12, 2004	No		Morris
ANNUAL REPORT										
7-ELEVEN STORE NO. 20342 OCEANSIDE	Hearing: Mand.	NA	NA	NA	100%	75%	May 12, 2004	No	$3,000 Mandatory Minimum Penalty	Melbourn
	Min. Penalties									
7-ELEVEN STORE NO. 22894 ESCONDIDO	Hearing: Mand.	NA	NA	NA	100%	75%	May 12, 2004	No	$9,000 Mandatory Minimum Penalty	Melbourn
	Min. Penalties									
US NAVAL BASE POINT LOMA	NPDES Permit	100%	NA	NA	100%	50%	May 12, 2004	Yes		Richter
SAN DIEGO BAY	Revision									
US NAVAL BASE CORONADO	NPDES Permit	100%	NA	NA	100%	50%	May 12, 2004	Yes		Richter
SAN DIEGO BAY	Revision									
2003 WILDFIRE DESTRUCTION SOLID WASTES	WDR Revision	100%	NA	NA	100%	50%	May 12, 2004	Yes		Odermatt
CONDITIONAL WAIVER										
RESCISSION OF OUTDATED	Rescission of	NA	NA	NA	100%	0%	May 12, 2004	Yes		Phillips
WASTE DISCHARGE REQUIREMENTS	WDRs									
SAN DIEGO CONVENTION CENTER	Hearing: Mand.	NA	NA	NA	100%	75%	May 12, 2004	Yes	$9,000 Mandatory Minimum Penalty	Stewart
SAN DIEGO BAY	Min. Penalties									
MISSION VALLEY TERMINALS KINDER MORGAN	Hearing: Mand.	NA	NA	NA	100%	75%	May 12, 2004	Yes	$3,000 Mandatory Minimum Penalty	Melbourn
SAN DIEGO	Min. Penalties									
SAN DIEGO COUNTY WATER AUTHORITY	Hearing: Mand.	NA	NA	NA	100%	75%	May 12, 2004	Yes	$12,000 Mandatory Minimum Penalty	Melbourn
PIPELINE RELOCATION PROJ. SAN MARCOS	Min. Penalties									
JUNE 9, 2004 RB MEETING										
AT RB OFFICE SAN DIEGO										
RIVERSIDE SANTA MARGARITA RIVER MS4	Consider Permit	100%	100%	100%	100%	50%	June 9, 2004	No	NPDES Workplan FY 2003-04	Quigley
STORMWATER PERMIT REISSUANCE	Adoption									
RAMONA MUN. WATER DIST. COMPLIANCE	Status Report	100%	NA	NA	NA	0%	June 9, 2004	No		Bryan Ott
AND SAN VICENTE GROUNDWATER BASIN										
2004 TRIENNIAL REVIEW OF BASIN PLAN	Public Testimony	NA	NA	NA	50%	25%	June 9, 2004	No	Conduct public hearing	Ebsen
SWEETWATER AUTHORITY LOWER	NPDES Permit	100%	100%	100%	20%	0%	June 9, 2004	No	NPDES Workplan FY 2003-04	Indus. Unit
SWEETWATER RIVER CHULA VISTA	Renewal									

SIGNIFICANT NPDES PERMITS, WDRS, AND RB ACTIONS

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SEAWORLD SAN DIEGO MISSION BAY	Hearing: Mand.	NA	NA	NA	100%	75%	June 9, 2004	No	$12,000 Mandatory Minimum Penalty	Stewart
	Min. Penalties									
SAN ELIJO WATER POLLUTION CONTROL FAC.	Hearing: Mand.	NA	NA	NA	100%	75%	June 9, 2004	No	$12,000 Mandatory Minimum Penalty	Stewart
SAN ELIJO JPA, CARDIFF	Min. Penalties									
VAN OMMERING DAIRY, LAKESIDE	New NPDES	100%	100%	95%	95%	0%	June 9, 2004	Yes	NPDES Workplan for FY 2003-04	Phillips
	Permit									
AUGUST 11, 2004 RB MEETING										
AT RB OFFICE SAN DIEGO										
DUKE ENERGY SOUTH BAY POWER PLANT	NPDES Permit	80%	80%	80%	50%	0%	August 11, 2004	No	NPDES Workplan FY 2001-02	Indus. Unit
SAN DIEGO BAY	Renewal									
TOT. MAX. DAILY LOAD--SHELTER ISL. YACHT	Basin Plan	NA	100%	80%	0%	0%	August 11, 2004	No	Consider adoption of Basin Plan Amendmen	Dobalian
BASIN SAN DIEGO BAY--DISSOLVED COPPER	Amendment									
2004 TRIENNIAL REVIEW OF BASIN PLAN	Resolution	NA	NA	NA	0%	0%	August 11, 2004	No	Consider adoption of resolution	Ebsen
BUDGET TRADE AND GAS / JIMMY HSU	Hearing: ACL	NA	NA	NA	0%	0%	August 11, 2004	No		Pease
ESCONDIDO										
SEPTEMBER 9, 2004 RB MEETING										
AT RB OFFICE SAN DIEGO										
SO. CALIF. EDISON CO. SAN ONOFRE NUCLEAR	NPDES Permit	0%	80%	80%	0%	0%	September 8, 2004	No	NPDES Workplan FY 2004-05	Phillips
POWER STATION UNIT NOS. 1, 2, and 3	Renewal									
USMC CAMP PENDLTON--CEASE AND DESIST	Recission of CDO	NA	NA	NA	0%	0%	September 8, 2004	No		Hanson
ORDER SANTA MARGARITA RIVER										
OCTOBER 13, 2004 RB MEETING										
AT RANCHO CALF. WATER DISTRICT										
NATIONAL STEEL AND SHIPBUILDING CO.	Public Testimony	NA	NA	NA	0%	0%	October 13, 2004	No	Conduct hearing	Carlisle
SAN DIEGO BAY SEDIMENT CLEANUP	CAO									
SOUTHWEST MARINE SAN DIEGO BAY	Public Testimony	NA	NA	NA	0%	0%	October 13, 2004	No	Concuct hearing	Carlisle
SEDIMENT CLEANUP	CAO									
NOVEMBER 10, 2004 RB MEETING										
AT RB OFFICE										
NATIONAL STEEL AND SHIPBUILDING CO.	Adoption: CAO	NA	NA	NA	0%	0%	November 10, 2004	No		Carlisle
SAN DIEGO BAY SEDIMENT CLEANUP										

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SOUTHWEST MARINE SAN DIEGO BAY	Adoption: CAO	NA	NA	NA	0%	0%	November 10, 2004	No		Carlisle
SEDIMENT CLEANUP										
SAN ELIJO JOINT POWERS AUTHORITY	NPDES Permit	0%	100%	80%	0%	0%	November 10, 2004	TBD	NPDES Workplan FY 2004-05	Kelley
SAN ELIJO WPCF	Renewal									
CITY OF ESCONDIDO HALE AVE. RESOURCE	NPDES Permit	0%	100%	80%	0%	0%	November 10, 2004	TBD	NPDES Workplan FY 2004-05	Kelley
RECOVERY FACILITY	Renewal									
UNIV. OF CALIFORNIA SCRIPPS INSTITUTION	NPDES Permit	0%	100%	80%	0%	0%	November 10, 2004	TBD	NPDES Workplan FY 2004-05	Phillips
OF OCEANOGRAPHY	Renewal									
PENDING / UNSCHEDULED ACTIONS										
TOTAL MAX.DAILY LOAD--RAINBOW CREEK	Cont. Hearing	NA	100%	100%	80%	50%				Carlisle
POLLUTANT--NUTRIENTS	Basin Plan Amd.									
US BORDER PATROL BORDER INFRASTUCTURE	Resolution: 401	NA	NA	NA	0%	0%				Baczkowski
SYSTEM FENCE PROJECT	Certification									
US BORDER PATROL FENCE INFRASTRUCTURE	Resolution: CEQA	NA	NA	NA	0%	0%				Baczkowski
SYSTEM FENCE PROJECT	Approval									
LAKE CUYAMACA RECREATION AND PARK DIST.	New WDRs	90%	90%	90%	90%	0%				Bryan Ott
REC. AREA NEAR JULIAN SAN DIEGO CO.										
COUNTY OF ORANGE-- PRIMA DESCHECHA	WDRs Revision	100%	100%	30%	0%	0%				Grove
LANDFILL										
GEN. WDRS / POST CLOSURE MAINTENANCE	New WDRs	NA	100%	60%	30%	90%				Grove
INACTIVE NON-HAZ. WASTE LANDFILLS										
GEN. WDRS / POST CLOSURE MAINTENANCE	New WDRs	NA	100%	60%	30%	90%				Grove
INACTIVE NON-HAZ. INSIGNIF. VOLUMES										
DECOMPOSABLE WASTES LANDFILLS										
IBWC INTERNATIONAL WASTEWATER	NPDES Permit	100%	100%	100%	0%	0%			NPDES Workplan FY 2001-02	Hanson
TREATMENT PLANT AND SO.BAY OUTFALL	Reissuance									
IBWC INTERNATIONAL WASTEWATER	Cease and Desist	NA	NA	NA	0%	0%				Hanson
TREATMENT PLANT AND SO.BAY OUTFALL	Order Hearing									
PROMENADE INC. PERMANENT DEWATERING	ACL Order	NA	NA	NA	100%	0%				Stewart
DISHARGE TO MISSION BAY										
MISSION VALLEY TERMINALS --SHELL OIL	Hearing: CAO	NA	NA	NA	0%	0%				Dorsey
PETITION FOR SEPARATE CAO										
MISSION VALLEY TERMINALS ADDENDUM TO	Hearing: CAO	NA	NA	NA	0%	0%				Dorsey
CAO NO. 92-01										

Remediation and Redevelopment of the Former Omar Rendering Site, Chula Vista, California

Brian McDaniel, Mark Unruh, Mary Hashem, Ray Hendry, Pat Beard and Hooper Knowlton III

Poster Session

Redevelopment of properties in urbanized areas of California is often hampered by actual and/or perceived contamination. The restoration of abandoned and under utilized properties can serve to revitalize existing communities, attract investment, stimulate economic development and even help protect the environment.

One local project involves a site where more than 30 years of industrial use has left a 40-acre parcel polluted with volatile organic compounds (VOCs), semivolatile organic compounds (SVOCs) and inorganic constituents. Past on-site activities included a wrecking yard, hazardous waste related trucking operations, underground storage tanks (USTs), hazardous waste disposal ponds, and a hazardous waste landfill.

Redevelopment of this site, as well as other brownfield sites, for productive reuse requires effective coordination among many stakeholders to integrate many elements including financial issues, community involvement, liability considerations, and environmental assessment. The California Regional Water Quality Control Board, the City of Chula Vista Community Development Department, the owners (Otay Mesa Ventures, a subsidiary of LandBank Properties), the environmental consultants (Shaw Environmental) and the developer (The Knowlton Group) are working together to evaluate strategies in support of the goal of redevelopment of this site.

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Presenting Author: Brian McDaniel

SANITARY SEWER OVERFLOW STATISTICS (Updated through March 31, 2004)

SEWAGE COLLECTION AGENCY	SYSTEM SIZE[B]		NO. OF SEWAGE SPILLS [LISTED BY FISCAL YEAR (FY) - JULY 1 THROUGH JUNE 30]				SPILLS PER 100 MILES (LISTED BY FY)				SPILL VOLUME 2003-04[A]	
	Miles	MGD	00-01	01-02	02-03	03-04[A]	00-01	01-02	02-03	03-04[A]	GAL	GAL/MG[D]
ORANGE COUNTY:												
EL TORO WD	55	2.2	0	3	1	3	0.0	5.5	1.8	5.5	1,468	2.4
EMERALD BAY SERVICE DISTRICT	6	0.1	1	0	0	0	16.7	0.0	0.0	0.0	0	0.0
IRVINE RANCH WD	36	2.0	1	0	0	0	2.8	0.0	0.0	0.0	0	0.0
LAGUNA BEACH, CITY OF	95	2.4	24	12	28	7	25.3	12.6	29.5	7.4	128	0.2
LOS ALISOS WD *(absorbed by Irvine Ranch WD, January 2001)*												
MOULTON NIGUEL WD	530	13.0	13	2	1	2	2.5	0.4	0.2	0.4	1,900	0.5
SAN CLEMENTE, CITY OF	179	4.5	9	6	7	4	5.0	3.3	3.9	2.2	17,676	14.3
SAN JUAN CAPISTRANO, CITY OF	100	3.4	1	0	0	0	1.0	0.0	0.0	0.0	0	0.0
SANTA MARGARITA WD	546	10.7	11	12	4	4	2.0	2.2	0.7	0.7	3,060	1.0
SOUTH COAST CWD	132	4.0	12	5	8	7	9.1	3.8	6.1	5.3	22,108	20.3
TRABUCO CANYON WD	43	0.7	0	0	0	1	0.0	0.0	0.0	2.3	5	0.0
RIVERSIDE COUNTY:												
EASTERN MWD	446	10.0	6	1	3	3	1.3	0.2	0.7	0.7	8,660	3.1
ELSINORE VALLEY MWD	80	2.0	1	0	0	0	1.3	0.0	0.0	0.0	0	0.0
MURRIETA MWD	25	0.5	*(included with Eastern MWD)*			1	*(included with Eastern MWD)*			4.0	100	0.7
RANCHO CA WD	71	2.9	0	2	0	1	0.0	2.8	0.0	1.4	700	0.9
SAN DIEGO COUNTY:												
BUENA SANITARY DISTRICT	84	1.9	0	0	2	0	0.0	0.0	2.4	0.0	0	0.0
CARLSBAD MWD	214	7.2	12	15	6	6	5.6	7.0	2.8	2.8	313	0.2
CHULA VISTA, CITY OF	400	16.0	7	6	3	6	1.8	1.5	0.8	1.5	3,620	0.8
CORONADO, CITY OF	53	3.8	11	5	2	2	20.8	9.4	3.8	3.8	105	0.1
DEL MAR, CITY OF	30	1.1	2	2	7	1	6.7	6.7	23.4	3.3	32	0.1
EL CAJON, CITY OF	198	9.1	3	2	3	0	1.5	1.0	1.5	0.0	0	0.0
ENCINITAS, CITY OF	118	4.1	4	2	6	1	3.4	1.7	5.1	0.8	550	0.5
ESCONDIDO, CITY OF	350	10.8	10	14	3	1	2.9	4.0	0.9	0.3	120	0.0
FAIRBANKS RANCH COMM SERV DIST	15	0.2	0	0	0	0	0.0	0.0	0.0	0.0	0	0.0
FALLBROOK PUBLIC UTILITY DIST[C]	72	2.0	27	17	22	6	37.5	23.6	30.6	8.3	3,760	6.8
IMPERIAL BEACH, CITY OF	84	2.2	9	1	14	2	10.7	1.2	16.7	2.4	223	0.4
LA MESA, CITY OF	155	5.8	3	12	3	3	1.9	7.7	1.9	1.9	1,000	0.6
LEMON GROVE, CITY OF	69	2.4	3	9	4	3	4.3	13.0	5.8	4.3	1,015	1.5

ATTACHMENT B-1

SANITARY SEWER OVERFLOW STATISTICS (Updated through March 31, 2004)

	SYSTEM SIZE[B]		NO. OF SEWAGE SPILLS [LISTED BY FISCAL YEAR (FY) - JULY 1 THROUGH JUNE 30]				SPILLS PER 100 MILES (LISTED BY FY)				SPILL VOLUME 2003-04[A]	
SEWAGE COLLECTION AGENCY	**Miles**	**MGD**	**00-01**	**01-02**	**02-03**	**03-04[A]**	**00-01**	**01-02**	**02-03**	**03-04[A]**	**GAL**	**GAL/MG[D]**
SAN DIEGO COUNTY *(continued)*:												
LEUCADIA CWD	185	4.2	5	5	6	1	2.7	2.7	3.2	0.5	50	0.0
NATIONAL CITY, CITY OF	97	5.1	0	0	1	2	0.0	0.0	1.0	2.1	3,300	2.4
OCEANSIDE,CITY OF,WTR UTIL DEP	446	13.0	19	17	23	19	4.3	3.8	5.2	4.3	1,960,221	548.3
OLIVENHAIN MWD	16	0.4	1	1	2	0	6.3	6.3	12.5	0.0	0	0.0
OTAY MWD	86	1.4	0	0	3	1	0.0	0.0	3.5	1.2	250	0.6
PADRE DAM MWD	150	5.1	1	4	3	2	0.7	2.7	2.0	1.3	74,000	52.8
PAUMA VALLEY COMM SERVICE DIS	8	0.7	0	0	0	0	0.0	0.0	0.0	0.0	0	0.0
POWAY, CITY OF	170	4.0	6	1	5	3	3.5	0.6	2.9	1.8	1,200	1.1
RAINBOW MWD	54	0.7	3	2	2	2	5.5	3.7	3.7	3.7	3,000	14.8
RAMONA MWD	83	1.3	3	5	2	1	3.6	6.0	2.4	1.2	3,000	8.4
RANCHO SANTA FE COMM SERV DIST	52	0.4	1	1	1	0	1.9	1.9	1.9	0.0	0	0.0
SAN DIEGO CO, PUBLIC WORKS	380	11.0	1	4	11	1	0.3	1.1	2.9	0.3	1,800	0.6
SAN DIEGO, CITY OF, MWWD	2,894	170	316	226	193	91	10.9	7.8	6.7	3.1	5,805,671	124.1
SOLANA BEACH, CITY OF	52	1.2	3	2	1	5	5.8	3.8	1.9	9.6	1,298	3.9
USMC BASE, CAMP PENDLETON	194	3.1	35	18	23	9	18.1	9.3	11.9	4.6	98,515	117.5
US NAVY	123	4.0	26	24	12	8	21.2	19.5	9.8	6.5	1,705	1.6
VALLECITOS WD	202	6.1	4	4	5	4	2.0	2.0	2.5	2.0	625	0.4
VALLEY CENTER MWD	48	0.3	0	0	3	0	0.0	0.0	6.3	0.0	0	0.0
VISTA, CITY OF	198	6.5	5	4	4	7	2.5	2.0	2.0	3.5	21,776	12.3
WHISPERING PALMS COMM SERV DIS	17	0.3	0	1	1	0	0.0	5.8	5.8	0.0	0	0.0
REGION 9 TOTAL	9640	364	599	447	428	220					8,042,954	
AVERAGE [1]							6.2	4.6	4.4	2.3		20
STANDARD DEVIATION [2]							7.9	5.1	7.1	2.4		83
MEDIAN [3]							2.6	2.4	2.4	1.5		1

[A] Includes available preliminary data for January - March 2004 and may not include all spills less than 1,000 gallons that did not enter surface waters or storm drains during this period.

[B] As of June 2003.

[C] Does not include 11 SSOs in 2000-2001 which occurred from private property but are the reponsibility of the Fallbrook PUD according to its own existing policies at the time.

[D] Volume of spills for the period in gallons divided by the amount conveyed for the period in million gallons

[1] The average is the sum of all values divided by the number of values.

[2] In a normally distributed set of values, 68% of the values are within one standard deviation either above or below the average value.

[3] The median is the middle value in a set; half the values are above the median, and half are below the median.

California Regional Water Quality Contr

San Diego Region

Terry Tamminen
Secretary for Environmental Protection

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Arnold Schwarzenegger
Governor

March 29, 2004

Mr. Kevin J. Ryan
Sr. Project Manager, Remediation
SFPP L.P., o/p Kinder Morgan Energy Partners, L.P.
P.O. Box 281304
Lakewood, CO 80228-8304

In reply refer to:
IC: 14-506.02:sk

Dear Mr. Ryan:

SUBJECT: RESPONSE TO MARCH 9, 2004 LETTER AND DISCUSSION OF COMPLIANCE ISSUES WITH ORDER NO. 2001-96

FACILITY: SFPP, L.P. o/p KINDER-MORGAN ENERGY PARTNERS, L.P. 9950 SAN DIEGO MISSION ROAD, SAN DIEGO, CALIFORNIA

Thank your for your March 9, 2004 letter submitted in response to the March 10, 2004 Executive Officer's (EO) Report. The purpose of the EO Report was to provide an update to the Regional Water Quality Control Board, San Diego Region (Regional Board) on the remediation and compliance activities currently taking place at Mission Valley Terminal. Your March 9, 2004 letter was intended to correct and clarify statements in the EO report. We have reviewed your letter and would like to clarify the statements made in the EO Report about ongoing compliance issues with Order No. 2001-96 as well as respond to the statements made in your March 9, 2004 letter.

COMPLIANCE ISSUES WITH INVESTIGATIVE ORDER, DIRECTIVE NO. 1

Investigative Order No. R9-2002-0420 was written December 26, 2002 to address ongoing non-compliance issues with Order No. 2001-96. In your March 9, 2004 letter you stated that the Regional Board had not notified you prior to March 10, 2004 that Directive No. 1 of Investigative Order No. R9-2002-0420 was not considered complete with your January 14, 2003 report submittal. We acknowledge that we did not inform you in a timely manner that Directive No. 1 was and remains incomplete.

The purpose of Directive No. 1 was to evaluate the available compliance alternatives to determine and implement an alternative that would result in compliance with Order No. 2001-96. Your compliance with Directive No. 1 is incomplete because you did not submit definitive treatment alternatives to come into compliance with Order No. 2001-96. You stated that in your opinion the Investigative Order only required Kinder Morgan to submit various compliance alternatives for consideration. In your March 9, 2004 letter you wrote that no definitive treatment alternative was

proposed because the specific cause of the Whole Effluent Toxicity (WET) test failures had not yet been identified.

COMPLIANCE ALTERNATIVES

Your January 14, 2003 report discussed various compliance alternatives that were considered but deemed infeasible. These alternatives included termination of groundwater extraction, discharge to sanitary sewer system, transportation for off-site disposal, and aquifer re-injection. The report also discussed two other options: pumping rate optimization and engineering modifications to the existing treatment system. These options were considered to be potentially viable solutions but the report did not provide a definitive compliance schedule nor give any indication as to when compliance with Order No. 2001-96 could be achieved. To date, we have not received any updates on these two potential alternatives.

In your January 14, 2003 report you identified aquifer re-injection as *not being a viable option* but in your March 9, 2004 letter you indicated that groundwater re-injection could be considered fulfillment of the expectation for a definitive compliance alternative. The Regional Board does not concur with your conclusion. It is our understanding that you do not consider aquifer re-injection to be a viable, definitive compliance alternative. Your representative, Mr. Scott Martin from LFR Levine Fricke, and Ms. Julie Chan, Senior Engineering Geologist, Tank Site Mitigation & Cleanup Unit, have discussed re-injection and the problems associated with it. Factors such as the high velocity of the aquifer material in the canyon, the thickness of unsaturated alluvium, and the low groundwater table at Qualcomm stadium will inhibit or prevent aquifer re-injection. We further understand that Kinder Morgan has no plans at this time to pursue re-injection nor has a viable option for disposal of the extracted groundwater to the aquifer, even though Ms. Chan has informed me that Kinder Morgan has not withdrawn the Report of Waste Discharge for enrollment under the general permit for groundwater re-injection.

CHRONIC TOXICITY TEST EVALUATION

In your March 9, 2004 letter you also discussed your continuing non-compliance with Order No. 2001-96 due to frequent failures of chronic toxicity tests. You mentioned that in October 2003 you became aware that the laboratory was using the national EPA protocol (which specifies using synthetic freshwater) instead of the methodology in Monitoring and Reporting Program No. 2001-96 (which specifies using dilution and control water from an unaffected area of the receiving water). You also mentioned that the mistaken use of synthetic freshwater in the past has resulted in an over-estimation of the level of toxicity present in the discharged effluent.

The Regional Board has reviewed the toxicity monitoring data you have submitted since October 2003. The quality of the receiving water does not appear to be an issue when testing acute

mortality, survival and growth of *Pimephales promelas* and *Ceriodaphnia dubia*. Two tables below summarize percent survival (Table 1) and number of mean young per female (Table 2) for the more sensitive species, *C. dubia*, in synthetic freshwater, in receiving water, and in 50% and 100% effluent for the period of October 2003 to January 2004. Your monitoring reports from October 2003 to January 2004 indicate that survival and growth tests for *C. dubia* were predominantly at or above 90% in the control (receiving) water. The toxicity tests are therefore considered valid and any effluent samples that failed the toxicity tests will be considered for future enforcement.

Table 1: Percent survival of *C. dubia* at last day

Test Date	Synthetic freshwater	Receiving water	In 50% effluent	In 100% effluent	TEST VALID?	PASSED?
1/19/04	100	90	90	70	Y	Y
1/5/04	100	100	90	70	Y	Y
12/15/03	90	80	10	40	Y	N
12/1/03	100	90	66.7	40	Y	N
11/17/03	100	88.9	90	70	Y	Y
11/3/03	100	90	80	60	Y	Y
10/27/03	100	100	100	30	Y	N
10/13/03	100	100	50	50	Y	N

Table 2: Mean young per female *C. dubia*

Test Date	Synthetic freshwater	Receiving water	In 50% effluent	In 100% effluent	TEST VALID?	PASSED?
1/19/04	25.5	12	9	7.4	N	n/a
1/5/04	21	17.9	8.9	0	Y	N
12/15/03	21.3	12.8	1.2	0.5	Y	N
12/1/03	26.7	15.9	8.2	3.7	Y	N
11/17/03	24.7	19.1	10.2	1.6	Y	N
11/3/03	24.9	21.4	12.1	4.3	Y	N
10/27/03	16.1	21.5	13.8	2.8	Y	N
10/13/03	27.9	17.8	8	4.4	Y	N

You submitted monitoring data from supplemental WET tests on February 13, 2004, that indicated that natural ionic composition of local groundwaters may interfere with the execution and interpretation of the WET tests. If it is suspected that the discharge of groundwater containing a higher ionic composition than surface waters leads to the failure of the WET tests for *C. dubia*, you are required to immediately evaluate and implement treatment options that will result in compliance with Order No. 2001-96.

Questions pertaining to this letter should be directed to Ms. Sabine Knedlik at (858) 467-2725, or via e-mail at *kneds@rb9.swrcb.ca.gov*. Written correspondence pertaining to this matter should be directed to me at the address in the letterhead.

The heading portion of this letter includes a Regional Board code number noted after "In reply refer to:" In order to assist us in the processing of your correspondence, please include this code number in the heading or subject line portion of all correspondence and reports to the Regional Board pertaining to this matter.

Respectfully,

JOHN H. ROBERTUS
Executive Officer

JHR:mpm:jrp:sk

cc: Ms. Karrie Field, Project Manager – Compliance EH&S, Kinder Morgan Energy Partners L.P., 1100 Town and Country Road, Orange, CA 92868

Mr. Scott Martin, LFR Levine Fricke, 3150 Bristol Street, Suite 250, Costa Mesa, CA 92626

Ms. Julie Chan, Senior Engineering Geologist, Tank Site Mitigation & Cleanup Unit, RWQCB

File: 14-506.02

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KINDER MORGAN
ENERGY PARTNERS, L.P.
SFPP, L.P.

SFPP, L.P.
Operating Partnership

March 9, 2004

Mr. John Robertus
Regional Water Quality Control Board- San Diego Region
9174 Sky Park Court, Suite 100
San Diego, California 92123

Subject: Correction and Clarification to Item 13 of the March 10, 2004 Executive Officer's Report
Kinder Morgan - Mission Valley Terminal NDPES Permit

Dear Mr. Robertus:

I write on behalf of SFPP, L.P., an operating partner of Kinder Morgan Energy Partners, L.P. (Kinder Morgan), to correct and clarify statements made in the Executive Officer's (EO) Report dated March 10, 2004 regarding Item 13, Mission Valley Terminal Issues, NPDES Toxicity Violations, Status of Compliance. Kinder Morgan received the EO Report on March 5, and was surprised to learn that the report we submitted, on schedule, on January 14, 2003 to the Regional Water Quality Control Board, as required by Investigative Order No. R9-2002-0420, was considered incomplete. This was the first feedback provided by the Regional Board staff since the report was submitted on January 14, 2003. Therefore, we deem it necessary to correct and clarify several statements made in the EO Report that may cause readers to misinterpret the status and progress of our efforts to achieve compliance with Order No. 2001-96.

Kinder Morgan operates a remediation project at the Mission Valley Terminal (MVT). Groundwater impacted by petroleum hydrocarbons is extracted from the subsurface, treated to remove the hydrocarbon contaminants, and discharged to Murphy Canyon Creek less than 1 mile above its confluence with the San Diego River under NDPES Permit No. CAG919002. The Investigative Order referenced in the EO Report was issued because the NDPES discharge from MVT was periodically failing the Whole Effluent Toxicity (WET) test, particularly the Ceriodaphnia dubia (freshwater flea) reproduction protocol.

1100 Town & Country Road Orange, California 92868 714/560-4400 714/560-4601 Fax

When the January 14, 2003 Kinder Morgan report was submitted, no definitive treatment alternative was proposed because the specific cause of the WET test failures had not yet been identified. Additionally, the language in the Investigative Order was not interpreted to require that we specify a definitive alternative, only that Kinder Morgan describe various compliance alternatives for consideration. Directive No. 1 of Investigation Order No. R9-2002-0420 states:

"Measures taken to achieve compliance with Order No. 2001-96, including a time schedule for implementation and evaluation of the various compliance measures taken by the discharger at the Mission Valley Terminal. The report must propose alternative methods of compliance with effluent limitations and alternative methods of disposal for the extracted groundwater capable of ensuring that designated beneficial uses of surface water bodies are not impaired by discharges of extracted groundwater from the treatment system at the site. The report is to be received in this office by January 14, 2003."

Our investigation report provided a summary description and time schedule for implementation and evaluation of the various compliance measures that had been taken between the initial discovery of apparent non-compliance (due to what was believed at the time to be violation of toxicity permit limits) and January 13, 2003. Additionally, the report presented the following proposed alternative methods for compliance and disposal: engineering modifications to existing treatment systems, pumping rate optimization, termination of groundwater extraction, discharge to sanitary sewer system, transportation for off-site disposal, and aquifer reinjection.

Shortly after submission of the report to the Regional Board, Kinder Morgan received results of the Phase II Toxicity Identification Evaluation (TIE) that indicated test failures were caused by the major TDS ions, including chloride and possibly bicarbonate and calcium, contained in the local groundwater rather than any man-made chemical pollutants. Subsequently, in April 2003, Kinder Morgan applied for a permit to reinject the treated groundwater back into the aquifer from which it had been extracted for disposal. Although groundwater reinjection is not considered to be an attractive alternative, it would eliminate the surface water discharge and therefore provide the highest level of protection to Murphy Canyon Creek As such, reinjection could be considered fulfillment of the expectation for a definitive compliance alternative.

The EO Report also states that the MVT facility continues to be out of compliance with Order No. 2001-96 because 33 additional exceedences have been recorded since January 2002. It is correct that frequent failures in the chronic toxicity testing continue to be observed. However, many of these tests should more correctly be considered to be invalid rather than actual exceedences for the reasons discussed below.

Continuing investigation of the WET testing failures has revealed that the analytical laboratory that has been conducting the tests had been incorrectly using the EPA's national protocol rather

than the methodology specified in the Monitoring and Reporting Program for Order No. 2001-96 (M&RP). The major difference between the two protocols is that the national EPA protocol recommends that "moderately-hard synthetic freshwater" be used for the control condition in the WET tests and the M&RP requires that unaffected samples of the effluent receiving water collected from upstream of the discharge point be used to represent the control condition. Use of moderately-hard synthetic freshwater as the control condition in the WET test results in a measure of "absolute toxicity" whereas the use of the effluent receiving water as the control condition results in a measure of "relative toxicity" (i.e. the toxicity of the effluent relative to that of the receiving water). The mistaken use of synthetic freshwater in past WET tests has resulted in an over-estimation of the level of toxicity present in the discharged effluent. This error in the testing protocol being employed by the WET testing laboratory was immediately corrected upon its discovery in October 2003.

Testing since October 2003 continues to indicate that exposure to treated groundwater inhibits reproduction in the Ceriodaphnia dubia. The specific chemical cause of test failure remains unknown and remains under investigation. Kinder Morgan continues to investigate two possibilities. First, the natural salinity of local groundwaters may inhibit reproduction in Ceriodaphnia dubia which prefer less saline water than found in Murphy Canyon Creek and the San Diego River. Second, reproduction may be inhibited because groundwater is naturally deficient in several key micro-nutrients normally found in surface freshwaters. In either case, these factors are more correctly considered sources of test interference than sources of toxicity.

All of these concerns have been discussed, at length, with the RWQCB staff. At staff's recommendation, our laboratory is now evaluating an alternative test species (*Hyalella azteca*) that appears to be less vulnerable to salinity interference. This is the same species now used by stormwater agencies throughout the San Diego region to demonstrate compliance with toxicity requirements. We are also performing special toxicity tests to determine whether minor modifications of the protocol can eliminate the interference caused by possible micro-nutrient deficiencies.

As discussed above, Kinder Morgan has been actively investigating and evaluating compliance issues since submission of the January 14, 2003 report. A comprehensive report, describing progress to date and current investigation activities was also submitted to the Regional Board staff on February 28, 2004 (copy attached). The report states that the special studies recommended by Regional Board staff will be performed in March and April of this year. A final report will be submitted in May 2004.

We are hopeful that the NDPES permit issues will be resolved by selecting organisms and procedures that eliminate the major sources of interference leading to false indications of toxicity. If, however, those measures prove ineffective, then Kinder Morgan will continue to

pursue the various treatment alternatives, including groundwater reinjection, identified in the January 14, 2003 report.

Thank you for your consideration of Kinder Morgan's corrections and clarifications to the EO Report. We recognize it is important that all parties work together to resolve these technically complex issues and we appreciate the efforts and guidance provided by the Regional Board staff. Kinder Morgan is committed to working cooperatively with the Regional Board staff to develop a solution that is mutually beneficial and restores full compliance with the effluent limitation of Order No. 2001-96 at the MVT. Please feel free to contact me at 303-914-7813 if you have any questions or require additional information.

Sincerely,

Kevin J. Ryan
Sr. Project Manager, Remediation

enclosure

cc: John Phillips, RWQCB
Julie Chan, RWQCB.
San Diego Region Board Members (submitted at March 10, 2004 Board meeting)

VOLUNTEERS AND PREVAILING WAGES

THE LAW

Under existing law, the use of volunteer labor is strictly limited. The Labor Code requires that prevailing wages be paid on public works projects that cost over $1000.[1] "Public works" is defined as "construction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part out of public funds...".[2] There is an exception for volunteer labor, but the volunteer labor exception has four restrictions, as follows:

> For the limited purposes of this chapter, "public works" shall not include any otherwise covered work which meets all the following conditions:
>
> (a) The work is performed entirely by volunteer labor.
>
> (b) The work involves facilities or structures which are, or will be, used exclusively by, or primarily for or on behalf of, private nonprofit community organizations including, but not limited to, charitable, youth, service, veterans, and sports groups or associations.
>
> (c) The work will not have an adverse impact on employment.
>
> (d) The work is approved by the Director of Industrial Relations [DIR] as meeting the requirements of this section.
>
> For purposes of subdivision (c), the director shall request information on whether or not the work will have an adverse impact on employment from the appropriate local or state organization of duly authorized employee representatives of workers employed on public works.[3]

Looking at DIR's posted decisions on volunteer labor, on the web at http://www.dir.ca.gov/DLSR/PrecedentialAlpha.htm, it is abundantly clear that DIR would find that volunteer labor used in nonpoint source pollution control, watershed, and restoration activities was subject to prevailing wage requirements. For example, in May 2001, DIR found that minor landscape improvements including aeration, top dressing, overseeding and fertilizing of a school football field performed by some of the high school students did not meet the requirements of the Labor Code exception for volunteer labor. (See http://www.dir.ca.gov/dlsr/Coverage/2000-082.pdf .) DIR found that such activities required payment of prevailing wages.

The penalties for not paying prevailing wages include repayment of such wages plus a penalty, as well as possible criminal liability for everyone involved. (Labor Code §§ 1775, 1777.)

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[1] Labor Code § 1771.

[2] Labor Code § 1720. The Department of Industrial Relations (DIR) has determined that this provision covers grant agreements. (DIR letter to Martin Couwenberg dated Nov 23, 1998 at http://www.dir.ca.gov/dlsr/Coverage/98-005.pdf.)

[3] Labor Code § 1720.4.

VOLUNTEER LABOR THAT WOULD LIKELY BE SUBJECT TO PREVAILING WAGE REQUIREMENTS

EXAMPLES

- Willow staking
- Spreading seeds and mulch
- Planting shrubs
- Operating heavy equipment
- Site cleanup
- Off-hauling garbage
- Planting vegetation
- Aeration of a field
- Top dressing of a field
- Overseeding and fertilizing a field
- Removal of invasive/exotic vegetation
- Stream bank stabilization/restoration (mulching, planting native vegetation, etc.)
- Instream restoration (sediment, trash, and structure removal)
- "hands-on" Student projects led by volunteers, depending on the project
- Any and all "pre-construction" work, including inspection and land surveying work, if it's pre-construction.

DHS' DRINKING WATER ACTION LEVELS

Action levels are health-based advisory levels for chemicals in drinking water that lack maximum contaminant levels (MCLs). They are used by the California Department of Health Services (DHS) to provide guidance to drinking water systems.

For more about the derivation and application of action levels, as well as contaminant-specific information, see the Drinking Water Program's website:

http://www.dhs.ca.gov/ps/ddwem/AL/actionlevels.htm

ACTION LEVELS

Chemical	AL (mg/L)	Chemical	AL (mg/L)
Aldicarb	0.007	Ethion	0.004
Aldrin	0.000002	Ethylene glycol	14
Baygon	0.03	Formaldehyde*	0.1
a-Benzene Hexachloride	0.000015	Isopropylbenzene (Cumene)	0.77
b-Benzene Hexachloride	0.000025	Malathion	0.16
Boron*	1	Manganese*	0.5
n-Butylbenzene	0.26	Metam sodium	0.02
sec-Butylbenzene	0.26	Methyl isobutyl ketone (MIBK)	0.12
tert-Butylbenzene	0.26	Methylisothiocyanate	0.05
Captan	0.0015	Methyl parathion	0.002
Carbaryl	0.7	Naphthalene	0.17
Carbon disulfide	0.16	NDMA*	0.00001
Chloropicrin	0.056	Parathion	0.04
Chlorate*	0.8	Pentachloronitrobenzene	0.02
2-Chlorotoluene	0.14	Perchlorate*	0.006
4-Chlorotoluene	0.14	Phenol	4.2
Chlorpropham (CIPC)	1.2	n-Propylbenzene	0.26
Diazinon	0.006	Tertiary butyl alcohol*	0.012
Dichloro-difluoromethane*	1	2,3,5,6-Tetrachloroterephthalate	3.5
Dieldrin	0.000002	1,2,3-Trichloropropane*	0.000005
Dimethoate	0.001	1,2,4-Trimethylbenzene*	0.33
1,3-Dichlorobenzene	0.6	1,3,5-Trimethylbenzene*	0.33
2,4-Dimethylphenol	0.1	Trithion	0.007
1,4-Dioxane*	0.003	Vanadium*	0.05
Diphenamide	0.2		

* indicates that contaminant was detected more than once in at least one drinking water source 2001-2003